

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2009-342-W/S

RE: Review of Avondale Mills,)
Incorporated's Rates Approved)
in Order No. 2009-394)

EXHIBIT B

SEWER SYSTEM ASSET PURCHASE AGREEMENT

This **SEWER SYSTEM ASSET PURCHASE AGREEMENT** (this "Agreement") is entered into this ____ day of November, 2009 by and between **AVONDALE MILLS, INC.**, a corporation organized under the laws of the State of Alabama and having an address at 506 South Broad Street, Monroe, Georgia ("Avondale"), and **AIKEN COUNTY, SOUTH CAROLINA**, a body politic and corporate and a political subdivision of the State of South Carolina (the "County").

WITNESSETH:

WHEREAS, it is the desire and intent of the parties that, upon satisfaction of the terms and conditions of this Agreement, Avondale will sell and convey its rights, title and interest in and to the following assets, other than certain excluded assets, to the County, and the County will purchase and accept Avondale's rights, title and interest in and to the following assets, other than certain excluded assets, in an as is, where is condition: the sanitary sewer lines and pipelines and lift stations located on, under, upon, across and through Aiken County, South Carolina and used for the purpose of collecting and removing wastewater, including the lift stations described on Exhibit A (collectively, the "Sewer System");

WHEREAS, in connection with and as a condition to this Agreement, Avondale will sell and convey its rights, title and interest in and to the following assets, other than certain excluded assets, to Valley Public Service Authority, a special purpose district and a political subdivision of the State of South Carolina ("VPSA"): (a) a currently non-operating water treatment facility (the "Facility"); and (b) the water lines, drainage lines and pipelines and the attached pumps and tanks located on, under, upon, across and through Aiken County, South Carolina and used for the purpose of supplying and distributing potable water (collectively, the "Water Lines," and collectively with the Facility, the "Avondale Water System") pursuant to the Waterworks Asset Purchase Agreement, dated as of October 28, 2009, between Avondale and VPSA (the "Waterworks Asset Purchase Agreement");

WHEREAS, the County does not intend to spend any funds for capital improvements to or rehabilitation of the Sewer System other than those funds provided from the loan described in Section 6.2(i) hereof; and

NOW, THEREFORE, in consideration of the mutual promises contained herein the parties agree as follows:

ARTICLE I DEFINITIONS

"Agreement" means this Sewer System Asset Purchase Agreement between Avondale and the County.

"Avondale" means Avondale Mills, Inc., a corporation organized under the laws of the State of Alabama.

"Avondale Water System" has the meaning given to such term in the factual recitals to this Agreement.

“Closing” means the closing of the transfer of the Sewer System, on the terms and conditions established by and as described in this Agreement.

“Closing Date” means the date on which the Closing occurs.

“County” means Aiken County, South Carolina.

“DHEC Permit” has the meaning given to such term in Section 2.3 hereof.

“Due Diligence Investigation” has the meaning given to such term in Section 3.1 hereof.

“Due Diligence Period” means the period from the date hereof until January 31, 2010.

“Excluded Assets” has the meaning given to such term in Section 2.1(a) hereof.

“Excluded Liabilities” has the meaning given to such term in Section 2.3(b) hereof.

“Facility” has the meaning given to such term in the factual recitals to this Agreement.

“Sewer Capacity” has the meaning given to such term in Section 2.2 hereof.

“Sewer System” has the meaning given to such term in the factual recitals to this Agreement.

“VPSA” means Valley Public Service Authority, a special purpose district and a political subdivision of the State of South Carolina.

“Water Lines” has the meaning given to such term in the factual recitals to this Agreement.

“Waterworks Asset Purchase Agreement” has the meaning given to such term in the factual recitals to this Agreement.

ARTICLE II

TRANSFER OF AVONDALE WATER AND SEWER SYSTEM; CONSIDERATION

Section 2.1. Conveyance.

(a) Subject to the conditions set forth in this Agreement and excluding the Excluded Assets (as defined below), on the Closing Date, (i) Avondale shall sell and convey all of its rights, title and interest in and to the Sewer System to the County, and (ii) the County shall purchase and accept the Sewer System. The instruments of such conveyance (i) shall be in the form that is usual and customary for transferring the type of property involved under the laws of the State of South Carolina and shall contain the disclaimer language set forth in Section 2.1(b), and (ii) shall be in form and substance reasonably satisfactory to the County and Avondale and their respective counsel; provided, however, in no event should Avondale be required to convey its rights, title and interest in and to the Sewer System other than pursuant to a conveyancing instrument containing no warranties of title. The “Excluded Assets” consist of the following: Avondale Water System, Gregg Plant

fire loop, performance bonds or letters of credit with the South Carolina Public Service Commission or other regulatory body; all contracts and agreements of Avondale; all cash and cash equivalents of Avondale; intellectual property, such as trade names, service names, logos, owned or licensed computer software and other like proprietary rights of Avondale (including, as applicable, the trade names "Avondale" and "Avondale Mills"); all financial, accounting, tax, personnel, and other books and records; accounts receivable; prepayments, deposits, or refunds of income taxes; and all rights that accrue to Avondale under this Agreement.

(b) THE COUNTY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SET FORTH IN THIS AGREEMENT, AVONDALÉ HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, STATUTORY, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE SEWER SYSTEM, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE SEWER SYSTEM, (C) THE SUITABILITY OF THE SEWER SYSTEM FOR ALL OR ANY ACTIVITIES OR USES WHICH THE COUNTY MAY CONDUCT THEREON OR THEREWITH, (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE SEWER SYSTEM, (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE SEWER SYSTEM, (F) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE SEWER SYSTEM OR (G) THE TITLE TO THE SEWER SYSTEM; PROVIDED, HOWEVER, THAT NOTHING CONTAINED HEREIN SHALL AFFECT THE CONVEYANCE OF THE SEWER SYSTEM PURSUANT TO THE CONVEYANCING INSTRUMENT. THE COUNTY FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE SEWER SYSTEM, THE COUNTY IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE SEWER SYSTEM AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY AVONDALÉ AND ACCEPTS THE SEWER SYSTEM AND WAIVES ALL OBJECTIONS OR CLAIMS AGAINST AVONDALÉ (INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE SEWER SYSTEM OR TO ANY HAZARDOUS MATERIALS ON THE SEWER SYSTEM. THE COUNTY FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE SEWER SYSTEM WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT AVONDALÉ HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. AVONDALÉ IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE SEWER SYSTEM, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, INCLUDING AVONDALÉ PERSONNEL OR

REPRESENTATIVES. THE COUNTY FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE SEWER SYSTEM AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS," CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE SEWER SYSTEM HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE SEWER SYSTEM IS SOLD BY AVONDALE AND PURCHASED BY THE COUNTY SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING AND SHALL BE INCLUDED IN ANY CONVEYANCING DOCUMENTS FROM AVONDALE TO VSPA.

Section 2.2. Consideration. Subject to the conditions and exceptions set forth in this Agreement, Avondale and the County agree that, as consideration for the County's assumption of liabilities pursuant to Section 2.3, (i) Avondale shall sell and convey all of its rights, title and interest in and to the Sewer System to the County and (ii) Avondale shall transfer and convey all of its rights to the County to the capacity (the "Sewer Capacity") in a wastewater treatment plant owned and operated by the Aiken County Public Service Authority that Avondale obtained as a result of its acquisition of the Graniteville Company, a South Carolina corporation, without further charge or condition, except as otherwise provided by this Agreement.

Section 2.3. Assumption of Liabilities.

(a) Except as provided in Section 2.3(c), on the Closing Date, the County agrees to assume all liabilities, obligations and duties related to the Sewer System that arise after the Closing Date.

(b) On the Closing Date, the County shall assume all liabilities, obligations and duties of Avondale with respect to the Satellite Sewer Operating Permit issued by the South Carolina Department of Health and Environmental Control regarding operation of the Sewer System that survive the transfer of the Sewer System to the County and arise after the Closing Date (the "DHEC Permit").

(c) On the Closing Date, the County shall not assume or be liable for any of the following obligations, liabilities, or duties of Avondale (collectively, the "Excluded Liabilities"):

(1) any liability of Avondale incurred in connection with this Agreement and the transactions provided for herein, including brokerage, accounting, and counsel fees, transfer and other taxes, and expenses pertaining to the performance by Avondale of its obligations hereunder;

(2) any liability or obligation of Avondale arising under any contract or agreement, except for the DHEC Permit;

(3) any obligations to Avondale's employees, including without limitation any obligations arising under any employee retirement program, health care plan, or other benefit plan;

(4) any litigation, proceeding, claim by any person or entity, or other obligation

of Avondale arising out of events occurring prior to the Closing Date; and

(5) any obligations under any federal or state environmental, antitrust, civil rights, health, safety, labor, and discrimination laws or regulations arising out of events occurring prior to the Closing Date.

Section 2.4. Limitation of Liability. The County agrees that, to the fullest extent permitted by law, Avondale shall not be liable to the County for any claims, losses, costs, damages of any nature whatsoever or claims for expenses from any cause or causes, except for Excluded Liabilities.

Section 2.5. Closing. The Closing shall take place at the offices of VPSA at 10:00 a.m., local time, on such date as may be determined by the parties but in no event later than January 31, 2010. This Agreement shall automatically terminate if the Closing has not occurred on or prior to January 31, 2010.

ARTICLE III DUE DILIGENCE PERIOD

Section 3.1. Due Diligence Period. During the Due Diligence Period, the County may conduct such diligence, investigations, inquiries, tests, sampling, reviews, and research as it may reasonably request (the "Due Diligence Investigation") prior to accepting the conveyance of the Sewer System; provided that (a) such diligence, investigations, inquiries, tests, sampling, reviews, and research is under the supervision of Avondale during normal business hours and subject to the rights of the owners and operators of the properties on which the Sewer System is located and (b) that no site inspection may involve a Phase II level examination or other invasive technique unless Avondale consents thereto in writing. Avondale shall cooperate reasonably with the County in the Due Diligence Investigation. The County agrees to promptly repair and restore any and all damage caused to the Sewer System arising out of or related to the exercise of the rights granted to the County under this Section 3.1.

Section 3.2. Information to be Furnished by Avondale. To the extent that such information is not attached as an exhibit or schedule to this Agreement, then as promptly as is practicable and in no event more than thirty days after the date hereof, Avondale shall assemble and make available to the County the following information:

- (a) Avondale's articles of incorporation and bylaws;
- (b) copies of all resolutions, corporate actions, and minutes relating to the proposed sale of the Sewer System to the County;
- (c) surveys and legal descriptions relating to the Sewer System to the extent that such information exists and is in Avondale's possession;
- (d) all security instruments with respect to the personal property, fixtures, equipment, inventory, and accounts relating to the Sewer System, including without limitation mortgages, liens, leases, control agreements, and U.C.C. filings to the extent such information exists and is in Avondale's possession;

(e) all environmental permits and licenses; and consent orders and permits relating to the Sewer System to the extent that such information exists and is in Avondale's possession;

(f) all financial audits, financial statements, amounts paid for water supply and sewer treatment, customer billing records, capital expenditures, and significant repairs relating to the Sewer System since January 1, 2007 to the extent that such information exists and is in Avondale's possession;

(g) all material pending and threatened legal actions relating to the Sewer System, if any;

(h) all material contracts relating to the Sewer System to the extent that such information exists and is in Avondale's possession; and

(i) all records regarding accounts receivable, accounts payable, billing, and meter reading relating to the Sewer System; and

(j) such other information relating to the Sewer System as may be reasonably requested by the County and in Avondale's possession.

Section 3.3. Termination. If the County determines during the Due Diligence Period that it does not desire to accept the conveyance of the Sewer System, for any or no reason, then the County shall have the right to terminate this Agreement. In such event, the County shall have no further obligation to Avondale or liability under this Agreement whatsoever and Avondale shall have no further obligation to the County or liability under this Agreement whatsoever.

ARTICLE IV REPRESENTATIONS AND WARRANTIES

Section 4.1. Representations and Warranties of Avondale. Avondale represents and warrants to the County as follows:

(a) *Authority to Execute and Perform Agreements.* Avondale has the full legal right and power and all authority and approvals required to enter into, execute, and deliver this Agreement and to fully perform its obligations hereunder. This Agreement has been duly executed and delivered and is the valid and binding obligation of Avondale, enforceable in accordance with its terms.

(b) *Compliance with Laws.* Except as set forth on Schedule 4.1(b),

(i) Avondale is not in violation of any order, judgment, injunction, award, or decree binding upon it with respect to the ownership, operation, and maintenance of the Sewer System, except such violation that would not have a material adverse effect on the Sewer System.

(ii) Avondale is not in violation of any federal, State, local, or foreign law, ordinance, permit, or regulation or any other requirement of any governmental or regulatory body, court, or arbitrator with respect to the ownership, operation, and maintenance of the

Sewer System, except such violation that would not have a material adverse effect on the Sewer System.

(c) *Actions and Proceedings.* Except as set forth on Schedule 4.1(c), there are no actions, suits, or claims or legal, administrative, or arbitral proceedings pending or, to the best knowledge of Avondale, threatened against or involving Avondale relating to the Sewer System, except such actions, suits, or claims or legal, administrative, or arbitral proceedings that would not have a material adverse effect on the Sewer System. To the best knowledge of Avondale, there is no fact, event, or circumstance that may give rise to any suit, action, claim, investigation, or proceeding that individually or in the aggregate could have a material adverse effect upon the transactions contemplated hereby.

Section 4.2. Representations and Warranties of the County. The County represents and warrants to Avondale as follows:

(a) *Organization and Qualification.* The County has the lawful authority to own and operate the assets, properties, and business of the Sewer System.

(b) *Authority to Execute and Perform Agreements.* The County has the power and all authority and approvals required to enter into, execute, and deliver this Agreement and to fully perform its obligations hereunder. This Agreement has been duly executed and delivered and is the valid and binding obligation of the County enforceable in accordance with its terms.

(c) *Actions and Proceedings.* There are no actions, suits, or claims, legal, administrative, or arbitral proceedings pending or, to the best knowledge of the County, threatened against or involving the County that individually or in the aggregate could have a material adverse effect upon the transactions contemplated hereby. To the best knowledge of the County, there is no fact, event, or circumstance that may give rise to any suit, action, claim, investigation, or proceeding that individually or in the aggregate could have a material adverse effect upon the transactions contemplated hereby.

Section 4.3. Continued Effectiveness of Representations and Warranties. From the date hereof through the Closing Date, Avondale shall use reasonable efforts to conduct its business and affairs in such a manner so that the representations and warranties contained in Section 4.1 hereof shall continue to be true and correct in all material respects on and as of the Closing Date as if made on and as of the Closing Date. Prior to the time of Closing, Avondale shall promptly notify the County of any event, condition, or circumstance occurring from the date hereof through the Closing Date that would constitute a violation or breach of this Agreement or that would cause a representation or warranty herein made to be untrue or misleading in any material respect. Such notification shall be deemed to avoid or cure any misrepresentation or breach of warranty or constitute an amendment of any representation, warranty, or statement in this Agreement. For the avoidance of doubt, such notification shall not affect the right of the County to terminate this Agreement pursuant to Section 3.3.

Section 4.4. Survival. The representations and warranties set forth in this Article IV shall not survive the Closing Date.

ARTICLE V COVENANTS; OTHER UNDERTAKINGS

Section 5.1. Avondale Conduct of Business. (a) *Affirmative Covenants Pending Closing.* During the period from the date hereof to the Closing Date, Avondale shall use commercially reasonable efforts to maintain all of the Sewer System, in accordance with past practices and at a quality that is currently maintained and shall maintain the Sewer System in accordance with the applicable operating standards established by the South Carolina Department of Health & Environmental Control.

(b) *Negative Covenants Pending Closing.* During the period from the date hereof to the Closing Date, Avondale shall not:

- (1) sell, exchange, transfer, mortgage, pledge, or create or permit to be created any security interest on any of the Sewer System; or
- (2) knowingly incur any obligation or liability of or affecting the Sewer System, other than in the ordinary course of Avondale's business.

Section 5.2. Accounts Receivable. Subsequent to the Closing, the County shall have the right and authority to collect all accounts receivable for sewer services rendered before the Closing Date. The County agrees that it will promptly transfer or deliver to Avondale any cash or other property that the County may receive with respect to such accounts receivable; *provided*, however, that the County shall be entitled to retain an administrative fee not to exceed 10% of the collected accounts receivable for its costs and expenses incurred in collecting any such amounts.

Section 5.3. The County Conduct of Business. Beginning immediately following the Closing, the County shall (i) provide or cause to be provided sewer services to the existing customers of the Sewer System in compliance with the applicable operating standards established by the South Carolina Department of Health and Environmental Control and (ii) enter into agreements necessary to provide sewer services to the existing customers of the Sewer System in compliance with the applicable operating standards established by the South Carolina Department of Health and Environmental Control. If the County consummates the transactions contemplated by this Agreement, the County intends to convey and transfer the Sewer System to VPSA as soon as possible and may assign all of the County's rights, liabilities, obligations, and interests in this Agreement to VPSA at any time upon giving notice to Avondale of such assignment.

Section 5.4. Further Assurances. Prior to and after the Closing Date, each of the parties shall execute such documents, further instruments of transfer and assignment, and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby.

ARTICLE VI CONDITIONS TO CLOSING

Section 6.1. Conditions to Closing for Avondale. The obligation of Avondale to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver) on or prior to the Closing Date of each of the following conditions:

(a) *Representations and Warranties.* The representations and warranties of the County contained in this Agreement shall be true and accurate as of the date hereof and shall be true and accurate as of the Closing Date with the same force and effect as though made on and as of the Closing Date. The County shall have performed and complied with all covenants and agreements required by this Agreement to be performed or complied with on or prior to the Closing Date. The County shall have delivered to the County a certificate, dated the Closing Date and signed by an authorized officer, to the foregoing effect and stating that all conditions to the County's obligations hereunder have been satisfied.

(b) *Litigation.* No action, suit, or proceeding shall have been instituted before any court or governmental or regulatory body, or instituted or threatened by any governmental or regulatory body, to restrain, modify, or prevent the carrying out of the transactions contemplated by this Agreement, or to seek damages or a discovery order in connection with such transactions, or that has or may have a materially adverse effect on the assets, properties, business, operations, or condition (financial or otherwise) of Avondale.

(c) *Public Service Commission.* The South Carolina Public Service Commission shall have approved the conveyance of the Sewer System, or the County shall have received written confirmation from the Public Service Commission that such approval is not required.

(d) *DHEC Permit.* The South Carolina Department of Health and Environmental Control shall have approved the conveyance of the Sewer System and the transfer of the DHEC Permit to the County, if required.

(e) *DHEC Consent Order.* The South Carolina Department of Health and Environmental Control shall have agreed to remove Avondale from the consent order, if any, regarding the Sewer System.

(f) *GAC Consent.* Avondale shall have obtained the required consent pursuant to the Asset Purchase Agreement between Avondale and GAC Holdings, LLC, a South Carolina limited liability company, dated as of April 3, 2007, as amended as of September 24, 2007.

(g) *Other Consents and Approvals.* Avondale and the County shall have obtained all other consents or approvals that are required in order to convey all of Avondale's rights, title and interest in and to the Sewer System to the County.

(h) *Waterworks Asset Purchase Agreement.* The conveyance of the Avondale Water System to VPSA pursuant to the Waterworks Asset Purchase Agreement shall occur contemporaneously with the Closing.

Section 6.2. Conditions to Closing for the County. The obligation of the County to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or waiver) on or prior to the Closing Date of each of the following conditions:

(a) *Due Diligence Investigation.* The County shall have satisfactorily completed the

Due Diligence Investigation, subject to its right to terminate described in Section 3.3 hereof.

(b) *Representations and Warranties.* The representations and warranties of Avondale contained in this Agreement shall be true and accurate as of the date hereof and shall be true and accurate as of the Closing Date with the same force and effect as though made on and as of the Closing Date. Avondale shall have performed and complied with all covenants and agreements required by this Agreement to be performed or complied with on or prior to the Closing Date. Avondale shall have delivered to the County a certificate, dated the Closing Date and signed by an authorized officer, to the foregoing effect and stating that all conditions to the County's obligations hereunder have been satisfied.

(c) *Litigation.* No action, suit, or proceeding shall have been instituted before any court or governmental or regulatory body, or instituted or threatened by any governmental or regulatory body, to restrain, modify, or prevent the carrying out of the transactions contemplated by this Agreement, or to seek damages or a discovery order in connection with such transactions, or that has or may have a materially adverse effect on the assets, properties, business, operations, or condition (financial or otherwise) of Avondale.

(d) *Delivery of Instruments of Transfer.* Avondale shall have delivered or caused to be delivered to the County instruments of transfer in conformity with Article II of this Agreement.

(e) *No Material Change.* There shall have been no material adverse change in the financial condition, business, assets, operations, condition or prospects of the Sewer System.

(f) *Third Parties.* The County shall have received evidence of the receipt of all authorizations, consents, and permits of others required to permit (1) the consummation by the County and Avondale of the transactions contemplated by this Agreement and (2) the expansion of the legal service area of VPSA to allow water and sewer service in the area currently served by the Avondale Water System and the expiration of the challenge period for such actions without any such challenges being filed; provided, further, that such challenge period shall expire no later than December 30, 2009.

(g) *Public Service Commission.* The South Carolina Public Service Commission shall have approved the conveyance of the Sewer System, or the County shall have received written confirmation from the Public Service Commission that such approval is not required.

(h) *Outstanding Charges.* Avondale shall pay all outstanding charges or fees for which Avondale has received an invoice from the Aiken County Public Service Authority. Any charges or fees incurred but not invoiced prior to Closing that are owed by Avondale to the Aiken County Public Service Authority shall be invoiced to Avondale within 15 days of Closing and paid by Avondale within 30 days of receipt of the invoice.

(i) *Documents.* No later than January 15, 2010, Avondale has provided to the County for review all documents in draft form for effecting the conveyance and transfer of the Sewer System to the County.

(j) *Loan.* The County must have received adequate written assurances that it will receive a forgivable loan in the amount of at least \$4,000,000 in Federal ARRA funds for the purpose of improving the Sewer System based on the engineering study of B P Barber dated July 22, 2009, which has been approved by the South Carolina Department of Health and Environmental Control.

(k) *Waterworks Asset Purchase Agreement.* The conveyance of the Avondale Water System to VPSA pursuant to the Waterworks Asset Purchase Agreement shall occur contemporaneously with the Closing.

Section 6.3. *Limitations of Conditions.* Each party shall use its reasonable best efforts to satisfy their conditions; provided, however, if a condition is not satisfied and the other party decides to waive such condition and close the transaction, the party that did not satisfy its condition shall have no liability to the other party.

ARTICLE VII MISCELLANEOUS

Section 7.1. *No Other Agreements.* Avondale represents and warrants that (a) it is not a party to any other agreements with respect to the purchase, sale, or conveyance of the Sewer System and (b) it is not aware of any other agreement by third parties currently in effect with respect to the purchase, sale, or conveyance of the Sewer System.

Section 7.2. *Binding Effect; Successors.* The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, *provided* that neither party may not assign its rights and obligations hereunder without the prior written consent of the other party, except that the County may assign its rights and obligations under this Agreement to VPSA without the consent of Avondale.

Section 7.3. *Choice of Law; Venue.* This Agreement shall be governed by and construed in accordance with the domestic laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of South Carolina or any other jurisdiction). Any dispute arising hereunder shall be heard in the Court of Common Pleas for Aiken County, South Carolina.

Section 7.4. *Entire Understanding.* This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement, as amended or supplemented from time to time.

Section 7.5. *Severability.* In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

IN WITNESS WHEREOF, the parties do hereby execute this Agreement to evidence the agreement in principal to the terms hereof and to evidence the intent of the parties to cooperate to finalize the proposed transactions.

Signed, sealed and delivered
in the Presence of

Avondale Mills, Inc., a Alabama corporation,

[SEAL]

By: _____
Its: _____

Aiken County, South Carolina

[SEAL]

By: _____
Its: _____

Exhibit A

<u>Title of Attached Legal Description</u>	<u>Title of Attached Plat of Survey</u>
Senn Street Sewer Pump Station	PLAT PREPARED FOR AVONDALE MILLS INC. LOCATED AT: SOUTHERN END OF SENN STREET SOUTH SUBDIVISION IN THE COMMUNITY OF VAUCLUSE
Woodhead Wastewater Pump Station	PLAT PREPARED FOR AVONDALE MILLS INC. LOCATED AT: WASTEWATER PUMP STATION AT WOODHEAD ON LEITNER STREET EXTENUATION (S-2-48) IN GRANITEVILLE JUST EAST AND ACROSS FROM THE WOODHEAD MILL

Any and all other easement rights or other rights to real or personal property, other than such real or personal property conveyed or transferred to VPSA, inuring to the benefit of Avondale and related to the Sewer System.

Schedule 4.1(b)

The State of South Carolina before the Department of Health and Environmental Control
Consent Order 09-051-DW

In re: Avondale Mills, Inc.

Public Water System No. 0240002

Aiken County

The State of South Carolina before the Department of Health and Environmental Control
Consent Order 08-021-DW

In re: Avondale Mills, Inc.

Public Water System No. 0240002

Aiken County

Schedule 4.1(c)

Michael Hunt, Joe A. Taylor, A. Shane Massey, J. Roland Smith, and Tom Young, Jr.,
Petitioners v. Avondale Mills, Inc. and South Carolina Public Service Commission, Respondents
(Court of Common Pleas, Aiken County, South Carolina 2009-CP-02-01898).

Michael Hunt, Joe A. Taylor, A. Shane Massey, J. Roland Smith, and Tom Young, Jr.,
Respondents v. Avondale Mills, Inc., Appellant. South Carolina Public Service Commission,
Defendant. Pending before the South Carolina Supreme Court. Case No. _____ (Not yet
assigned). Appeal from Court of Common Pleas, Aiken County, South Carolina, Case No.:
2009-CP-02-01898.